

NO. 1 CANADIAN WAR CRIMES INVESTIGATION UNIT

67/KURT MEYER/1

12 Jan 46

D.A.G.,
C.M.H.Q.

Re Trial of Brigadeführer Kurt MEYER

1. Pending receipt of a complete transcript of the evidence and record, I submit hereunder a brief report on the marginally noted trial.

2. <The Convening Officer>, Major-General VOKES, GOC 3 Canadian Infantry Division (CAID) <directed that the accused be tried on two Charge Sheets. The first of these contained five charges (of which one was an alternative charge), and concerned offences committed while the accused commanded 25 SS Panzer Grenadier Regiment. The Second Charge Sheet contained one charge concerning an offence (the MOUEN case) committed after the accused had become GOC 12 SS Panzer Division (Hitler-Jugend), of which the 25th Regiment formed a part. Copies of the Charge Sheets are >attached hereto.

<<At the conclusion of the trial on the First Charge Sheet the approval of the Convening Officer was given not to proceed with the Second Charge Sheet.>>

3. <<Of the charges on which the accused was tried, he was found guilty on all except the second charge. Of the third and fourth alternative charges, he was found guilty on the latter.>>

4. FIRST CHARGE.

Evidence: Four German soldiers, members of 25 Panzer Grenadier Regiment, swore, that during training, MEYER had said to his troops on different occasions: "My regiment takes no prisoners"; that the order was repeated by MEYER's Adjutant, and also in secret orders read to a headquarters company by its senior NCO, for which orders all had to sign an acknowledgement. These latter orders included instructions that if prisoners were taken, they were to be shot

after interrogation. Further that another Company Commander, on the day of the invasion, addressed his troops and gave them the order that they were to take no prisoners. One of his Regimental officers swore, that LEYER had told him, that in another theatre he frequently had had to shoot prisoners. The accused denied the main charge but admitted the statement made to the officer. The prosecution also contended that the behaviour of the accused and his troops in battle, and later at the Regimental Headquarters, was further evidence that such an order had, in fact, been given.

Finding: Guilty.]

5.

SECOND CHARGE

Evidence: [Undisputed evidence was adduced that a total of more than 23 prisoners had, on more than nine separate occasions, been shot at or near the villages of BURON and AUTHIE following an attack made by LEYER's troops on the 7 June 44. The defence contended that troops other than those belonging to his Regiment participated in this attack, and, being similarly dressed, may have been responsible for some of these murders. It was also argued that all these offences occurred in a forward area in the heat of battle, and at, ^{the time,} or very soon after, (the prisoners had been captured) when conditions were still confused. While in some cases it appeared that officers may have taken part in the atrocities, in others there was evidence that they had interceded to prevent additional offences.]

Finding: Not Guilty.]

6.

THIRD AND FOURTH CHARGES

[The accused was here charged with ordering the shooting of seven prisoners at his Regimental Headquarters on the morning of 8 June 44 and, alternatively, with responsibility for such shooting.]

Evidence: [A German soldier swore that when the presence of the seven prisoners was announced to the accused

at his Headquarters at Abbaye Ardenne, situated 2500 - 3000 metres behind the line, that he said: "What shall we do with these prisoners, they only eat our rations.... in future we will take no prisoners"; that he spoke in a low tone to a staff officer who then went to where the prisoners were some 100 metres away. This officer, who on the evidence was in all likelihood the Adjutant, interrogated the prisoners and then left. Thereafter the prisoners were taken out individually to an adjoining garden, and shot by an NCO attached to the Headquarters. This occurred in daylight and other troops saw the shooting and bodies afterwards.

The witness was wounded on that night, and did not again return to the area until taken there by an Investigating Team a year later. It was then found that 18 bodies of Canadian soldiers had just previously been discovered, in five concealed graves in the garden. All bore fatal head wounds, eight had evidently been shot while the others appeared to have been killed with a blunt instrument. The accused admitted that all 18 had been shot at his Headquarters, but said it had been without his knowledge, and he denied the evidence as to any orders given. He said that on 11 June the presence of the bodies in the garden had been reported to him, that he went and verified the facts by looking at the bodies there, but had been unable to discover who the perpetrators were.

This evidence was refuted by testimony of French civilians, which established that the bodies were not in the garden on the evening of 8, 9 or 10 June and therefore must have been buried the day the prisoners were killed. They therefore could not have been there on 11 June when the accused said he saw them there. Other evidence also showed that an obstruction had been constructed on 3 June at the spot where the accused said that he had stood when he had seen the bodies, which obstruction was of such a

character that he could not have seen into the garden as alleged from that position on 11 June. It was also brought out that the accused, on all his interrogations, had denied any knowledge of the murders, until after he had been told by an Investigating Team the detailed evidence as to the finding of the bodies, and that he was to be put on trial for these murders. It was some days later, that he volunteered the statement denying his previous testimony and describing how he saw the bodies on 11 June.

Finding: Not guilty on the Third Charge. Guilty on the Fourth Charge.

Comment: The court evidently did not believe MEYER's explanation but did not believe that the evidence for the prosecution went far enough to establish that MEYER had actually ordered the shooting of these specific prisoners as alleged in the Third Charge. They must, however, have accepted the evidence of the prosecution witness as to what did occur at the headquarters and as to the circumstances generally, which evidence was corroborated in other material respects. Having regard to their finding on the first charge, i.e., inciting and counselling troops to deny quarter, it is apparent that the Court believed that the accused directly and/or indirectly, within the meaning of the Fourth Charge, was responsible for these prisoners being killed.]

7.

FIFTH CHARGE

[This has to do with the murder of the remaining 11 of the 18 prisoners whose bodies were found in the garden at the Regimental Headquarters of Ardenne.]

Evidence: [It was shown that these prisoners were all missing on 7 June, and, that at least six of them, previously unwounded, had been specially interrogated at the Abbaye Headquarters on the afternoon and evening of that day. It was shown that the accused and his Adjutant and staff had been at the Abbaye, and that it had been the advance Regimental Headquarters at all material times. These bodies had been buried in three separate graves suggesting separate shootings.

Finding: Guilty.

8. OTHER EVIDENCE

It was established that very few prisoners were captured by this Regiment after 8 June and that special inducements had been given for the capture of prisoners for the purpose of interrogation; that on 16/17 June an officer and NCO on patrol were captured wounded, and evacuated to Regimental Headquarters at Ardenne. Shots were heard there, and an explanation was given to the NCO in charge of the Feldgendarmerie that a prisoner had been shot. A month later, when this Headquarters was taken, the unburied body of the captured officer was found lying within 50 yards of what had been at the relevant time LEYER's own command post. The body bore fatal head injuries. The body of the NCO has not yet been discovered, but evidence was given that shots were heard at a later hour of the day on which they were captured, and it is possible that one of the two was killed and buried at that time.]

The evidence adduced for the prosecution was fully up to our expectations, and the defence brought in no testimony that had not been anticipated. One German prosecution witness, HELMEL, endeavoured to alter the evidence given by him originally on his interrogation. He was declared hostile however, and on cross-examination reaffirmed his original evidence. This, I believe, proved eventually helpful in demonstrating the truthfulness of the first testimony and the absence of any sinister motive for giving it.

9. SECOND CHARGE SHEET

This concerns the shooting by a large firing party of seven Canadian prisoners at MOULN on the afternoon of 17 June. The shooting was organized and deliberate, following an interrogation by an officer. There was no evidence, however, directly connecting the accused with these murders, and as the evidence at the trial seemed to indicate that he had not taken over command of the Division until noon on 17 June, it was thought unlikely that a conviction would be obtained on this charge. A recommendation was accordingly made to the Convening Officer that authority

be given not to proceed on this charge on the present evidence, and authority was given accordingly.]

10. GENERAL

The Court was convened by Major-General VOKES, GOC of the Canadian Occupation Force, 3 Canadian Infantry Division. The trial, which was held at Maple Leaf Barracks, AURICH, GERMANY, commenced on 10 December and continued for 14 days, concluding after a Christmas recess on 28 December. The administrative arrangements were largely under the control of 2/7 Canadian Infantry Brigade and 4 Battalion Royal Winnipeg Rifles, in whose custody the accused had been placed. Major D.J. Leach acted as special administrative staff officer. The accommodation provided was ideal for the purpose and the interior of the court room itself was specially constructed.

11. The Court, composed of Major-General FOSTER as President and Brigadiers JOHNSTON, SPARLING, BELL-IRVING and ROBERTS, with Lt-Col BREDIN as Judge Advocate, conducted the trial with great dignity and impartiality. The Judge Advocate carried out his responsible and difficult duties in a judicial and highly satisfactory manner to all concerned. Lt-Col ANDREW, who had been detailed as Defence Counsel, vigorously and ably defended the accused and did all that was possible on his behalf. He was assisted by Capt PLOURDE. I was, myself, assisted in the prosecution by Lt-Col CAMPBELL, OC of my UK Detachment and Lt-Col DEAN of the JAG Branch. I am greatly indebted to both for the whole-hearted and able assistance which they gave throughout. My unit also supplied three of the five required interpreters, Major STONBOROUGH, Capt LEHMAN and Lt ROBICHAUD, and two of the four court reporters, SM SAULL and SM HUBBARD. Capt HENLEY, 3 Division HQ, and Capt VAN OS, Mil Gov, Oldenburg, assisted as interpreters. CQMS CRONE and S/Sgt NETHERCUT, JAG Branch, were the other two court reporters. Major MORDEN and a clerical staff from our unit were responsible for the production of the record of the trial from day to day. All of these acted most efficiently and are entitled to the highest praise for the way in which they performed their various duties.

12. < Over 30 witnesses were heard, 11 of whom were German,

four French and the balance service personnel, some of whom were already civilians. Many of the witnesses were brought from Canada and some of the German witnesses were brought from prison camps in the United States.) The main prosecution witness, JESIONEK, a Polish conscript, is anxious to become a Canadian citizen and this is being discussed with Canada House. (In addition a large number of reports, affidavits and other documents were referred to or read.)

15. (That the trial was fairly conducted in all its aspects, is evident from the fact that no appeal was made from the findings of the court, and that the accused himself, at the conclusion of his address to the court, said: "I here, in front of the German public, wish to say that in the Canadian Army I was treated as a soldier, and that the law proceedings were fairly conducted".)

16. I think, therefore, we may in all modesty say that Canada's first Military Court has given a convincing demonstration of justice and firmness in the treatment of war criminals, which should commend itself to all who, at any time in the future, have need to study its proceedings.

B. J. S. Macdonald

(B.J.S. Macdonald) Lt-col,
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Copies to:

War Crimes Advisory
Committee, Ottawa.
Judge Advocate General

16. The sentence of the court was
that MEYER was to suffer death
by hanging.

*W. S. Macdonald
Major.*